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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,566	01/11/2001	Allan Stuart Algazi	1071	9680
23720	7590	05/18/2005	EXAMINER	
WILLIAMS, MORGAN & AMERSON, P.C. 10333 RICHMOND, SUITE 1100 HOUSTON, TX 77042			WEBB, JAMISUE A	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/759,566

**Applicant(s)**

ALGAZI, ALLAN STUART

**Examiner**

Jamisue A. Webb

**Art Unit**

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 4-9, 16-21 and 24-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-15, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 10, 11, 13, 14 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Recktenwald et al. (6,439,345) in view of Berson (6,802,005).

3. With respect to Claims 1, 10, 11, 13 and 22: Recktenwald discloses the use of an item pick-up system which includes a notifying paging system (116) which notifies a user electronically that the item is ready for pick-up (column 5, lines 19-31 and Claim 13), a scanner that scans a barcode on a printed receipt to decode and display item being picked up as well as the customer order information (Figure 5), once the order is selected it is transmitted to the stock room where an attendant fulfills the order and provides it to the customer (see abstract).

Recktenwald however fails to disclose the barcode being a encoded with customer biometric information and where the customer is verified using previously and currently provided biometric information. Berson discloses the use a method and system, where a person can be verified, by scanning a barcode, decoding the barcode to obtain the person's biometric information, and comparing it to collected information (See abstract with Figure 1, with corresponding detailed description). The barcode of Berson is encoded with the biometric information, therefore the examiner considers it to be a two-dimensional barcode, as defined by applicant. It would have been obvious to one having ordinary skill in the art at the time the

Art Unit: 3629

invention was made to modify Recktenwald, to include the verification step using the encoded biometric information, as disclosed by Berson, in order to provide a system that positively identifies a person to avoid fraud. (See Berson, Column 1).

4. With respect to Claims 2 and 14: Recktenwald discloses the system presenting a description as well as a visual picture of the item to be picked up before it is provided to the customer (See Figure 12).

5. Claims 3 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Recktenwald and Berson as applied to claims 1 and 13 above, and further in view of Stephens et al. (6,323,782).

6. Recktenwald discloses the use of notifying electronically when an item is ready for pick-up using a paging system or using RF transmission, but fails to disclose electronically notifying the user via cell phone. Stephens discloses the use of a delivery system where a receiver or customer is notified via RF transmission or via a cell phone, when an item is delivered to the location and ready for pick-up (column 9, lines 39-46). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the notification of an item being ready for pick-up as disclosed by Stephens, in the system of Recktenwald and Berson, in order to provide the customer information that is remotely passed without the use or dependency on lines or cables, and therefore allowing the information to be sent to remote locations (See Stephens columns 9-11).

Art Unit: 3629

7. Claims 12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Recktenwald and Berson as applied to claims 1 and 13 above, and further in view of Keagy et al. (6,069,969).

8. Recktenwald and Berson, as disclosed above discloses the use of a two-dimensional barcode encoding biometric information, but does not specifically disclose the use of the barcode using PDF 417 technology. Keagy discloses the use of a barcode that is encrypted with biometric information for use in verification purposes, and utilizes PDF 417 barcodes (column 10, lines 57-67). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the barcode of Recktenwald be the 2-D barcode using PDF 417 symbols, as disclosed by Keagy, in order to provide a template that can encode a user's biometric information and to allow for a secure encryption of the data. (see Keagy, column 10).

### *Response to Arguments*

9. Applicant's arguments, see Appeal Brief, filed 3/8/05, with respect to the two-dimensional barcode where the barcode is encoded with biometric information have been fully considered and are considered to be persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Berson.

10. With respect to Applicant's arguments that Recktenwald teaches away from the modifications due to the fact that he states that an "other non-employee person acting for the customer, such as a relative or friend" can pick up the item: The modification that was done was to have a step that verifies that a person is really the person who they say they are. Recktenwald permits someone other than the customer to pick-up the item. However, Recktenwald never

Art Unit: 3629

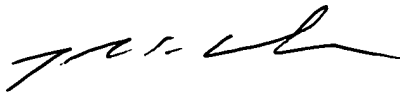
discloses that you cannot verify who the person is. Recktenwald says another person is allowed to pick up the item, it does not say that you never need to even verify that person. Furthermore, the abstract states that the invention includes entering a customer ID. For these reasons the examiner does not believe that Recktenwald teach away from verifying a person, and therefore the rejections stand as stated above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (571) 272-6811. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jamisue Webb

  
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